IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 351 (S/S) OF 2006

Khim Raj, S/o Sri Jagat Ram,
Petitioner was posted at Frontier Academy,
S.S.B. Sri Nagar Garhwal. .....Petitioner

Versus

1. Union of India, Ministry of Home Affairs, through Secretary Home New Delhi.
2. Office of Director, S.S.B. Frontier Academy Sri Nagar, Garhwal.
3. D.G. Force, Head Quarter, S.S.B., East Block-I, R.K. Puram, New Delhi.
4. The Inspector General, Frontier Hqrs, SSB, Itanagar (Now Lucknow) .....Respondents

10.03.2006

Sri Syed Nadim, learned counsel for the petitioner.
Learned standing counsel for the respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Syed Nadim, Learned Counsel for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of mandamus commanding the respondents not to recover the arrears of ration allowance from his salary and also direct the respondents to release the arrears of ration allowances during the period from 15.05.2000 to 30.01.2001.

Briefly stated, according to the case of the petitioner, he was appointed as Driver in the Frontier Academy, SSB Itanagar. Petitioner is presently posted at Srinagar Garhwal. Ration allowance is being required by the petitioner on equal footing with other employees. Ration allowance is being given after the order of this Hon'ble Court dated 28.08.2004. But while working in station B at Poonch is being deducted from the salary of the petitioner on the ground that he had not obtained any order in this regard from any Court. While the similarly situated employees who had obtained the order from the Court and are getting ration allowance and their allowances have not been deducted from their salary, which is

manifest discrimination and violation of Article 14 of the Constitution of India.

The petitioner has further submitted that the Government of India had been pleased to grant ration allowance to the executive staff posted in category 'B' & 'C' stations vide cabinet secretary letter no.27011/4/86/ Hill dated 18.12.1987 and also some of the stations were declared as category 'B' and 'C' station vide letter No.A-27011/4/86-EA-II dated 18.12.1987.

The grievance of the petitioner is that he is non executive staff of the Frontier Academy, Srinagar and he is low paid employee than the executive staff and after giving the Ration Allowance the respondents now are deducting the same from his salary while the similarly situated employees are getting the ration allowance as they obtained the order of the Court while the service condition and circumstances are same for the employees posted at station 'B' & 'C'.

The Petitioner has relied upon the case No.103 of 1999, where some of the employees of the non executive staff of the S.S.B. Itangar, Arunachal Pradesh filed the case in the Central Administrative Tribunal Gowahati Bench and stated therein that consequent to categorization of Itanagar station of S.S.B. of A.P. as category 'B' station in the year 1994, the non executive staff of S.S.B. were also entitled to ration allowance like the executive staff of the same station from the date of declaration. The Tribunal accepted and passed the order in their favour. The petitioner has also referred the order passed in writ petition No.881/99 before the Hon'ble High Court of Jammu and Kashmir for the demand of arrears of ration allowance. On the basis of Hon'ble Court's order, Ministry of Home Affairs directed the respondents that the arrears of the ration allowance has since been drawn by the Divisional Head Quarter S.S.B., Jammu will paid to all staff in accordance with their dues.

Petitioner has moved a representation to the Inspector General Frontier Head Quarter S.S.B. Itanagar with request that the arrears of the petitioner of ration allowance be released from 03.09.2003 to 31.05.1997 and 15.05.2000 to 30.01.2001 in his favour.

Petitioner has also referred the decision in writ petition No.938 (S/S) of 2003 Davendra Singh Nayal & others Vs. Union of India, this Hon'ble Court has allowed the petition vide order dated 28.08.2004 holding to the following effect:-

"6. Admittedly, the executive staff of S.S.B. was allowed ration allowance with effect from 30.9.1991 at Gwaldam (when it was declared 'B' Category station) as per cabinet Secretary letter No.A.27011/4/86-EA-II dated 18.12.1887, where as non executive staff was allowed the same after about nine and half hears i.e since 30.01.2001. Some of the non-executive employees posed at Itanagar who knocked the doors of Central Administrative Tribunal, Guwahati by filing O.A. No.103/1999 were allowed the ration allowance from the date of their posting there (copy of said order is annexure 4 to the writ petition). This fact is not denied by the respondents. Similarly some employees in the same manner got the relief from CAT by filing Original Application No.353/1999, copy of which is annexure 5 in writ petition. Even in the letter no.35/SSB/A2/2001(14) PFIII dated 19.12.2002 issued by the Government of India by which ration allowance granted for non executive staff, reliance has been placed not only in the aforesaid order of the Central Administrative Tribunal but also order dated 06.11.2001 passed by Jammu & Kashmir High Court in writ petition No.881/1999 Brij Mohan Vs. Union of India. In view of these ordes and letters it can very well be said that the petitioners are discriminated by non payment of arrears of ration allowance from 30.09.1991 to 30.01.20001 i.e. from the date Gwaldam was declared as Category 'B' station to the date where after the

allowance given. It is not disputed that Gwaldam is Category 'station with effect from 30.09.1991.

7. In these circumstances, petitioners who were posted Gwaldam can not be deprived of ration allowance at Gwaldam with effect from 30.09.1991 or the date of posting whichever later till 30.01.2001. Else it would be voilative of Article 14 of the Constitution of India.

8. Accordingly the writ petition is allowed for the relief claimed with the observation as above. No order as to costs."

In view of the above, petitioner can not be deprived of ration allowance from the date to posting.

Matter is squarely covered by the Judgement in Writ Petition No.938(S/S) of 2003 Davender Singh Nayal & others Vs. Union of India & others. The respondents are directed not to recover the ration allowance from the salary of the petitioner.

A writ of mandamus is issued directing the respondents to pay the ration allowance to the petitioner.

Accordingly the writ petition is allowed. No order as to costs.

(Rajesh Tandon, J.)

10.03.2006
Jain